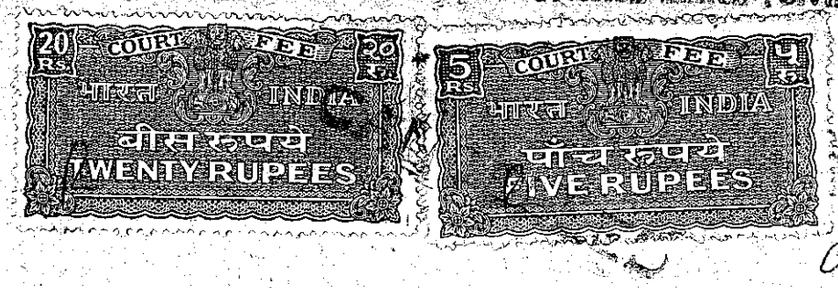
CF0000110098

Division Bench (Civil)



002

CMP-2

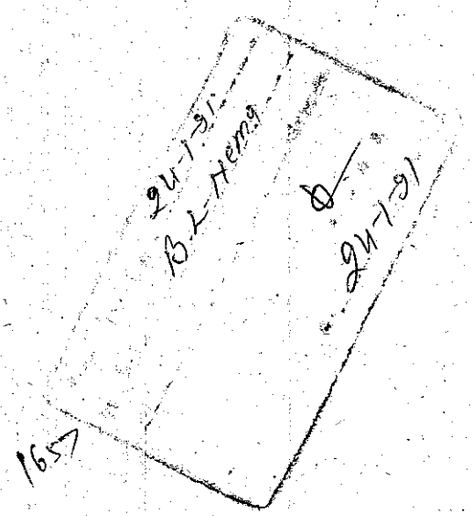
IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR.

M.P. NO. 393 / 1991.

PETITIONER : Bastar Oil Mill & Industries Ltd., JAGDALPUR, Through : Prafulla Panigrahi son of Shri K.P.Panigrah aged 28 years, JAGDALPUR. (M.P.).

V E R S U S

RESPONDENTS:
1. State Level Committee, Commissioner of Industries, BHOPAL. (M.P.).
2. General Manager, District Industries Centre, JAGDALPUR. (M.P.).
3. Assistant Commissioner of Sales Tax, RAIPUR. (M.P.).
4. Commissioner of Sales Tax, INDORE. (M.P.).



1657

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

039

मामला क्रमांक ..... WP 393/91 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	23-06-2005 Shri Ashish Shrivastava, Advocate and Smt. Smit Ghai, counsel for the petitioner. Shri Sandeep Dubey, Govt. Advocate for the State. Heard learned counsel for the parties. 2. By this petition under Article 226/227 of the Constitution of India, the petitioner has challenged the orders Annexure-P/8 and P/9, whereby the petitioner's applications have been rejected. 3. Smt. Ghai, learned counsel appearing for the petitioner contended that the petitioner established a new industry as per notification No.A-3-41-81(24)/ST-V dated 29-6-1982. It is further contended that the petitioner was entitled for exemption from payment of Sales Tax for a period of five years from the date of production, as the district of Bastar was in Category 'C' of Part-II of the notification. It is also contended that during the course of manufacture of vegetable oil by the solvent extraction process the petitioner also	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

040

आदेश पत्रक

मामला क्रमांक WP 393/91 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

manufactured D-Oiled Cakes, which is a bye-product of vegetable oil. It is also contended that the petitioner filed an application (Annexure-P/5) for exemption from payment of Sales Tax before respondent No.2. The eligibility certificate (Annexure-P/6) was issued for vegetable oil only and it did not cover D-Oiled Cakes. Learned counsel for the petitioner contended that the petitioner moved an application (Annexure-P/7) for amendment in the eligibility certificate so that he may be exempted from payment of Tax on D-Oiled Cakes as well. It is also contended that without hearing the petitioner the said amendment application has been rejected vide Annexure-P/8 on the ground of delay. It is also contended that D-Oiled Cakes is a bye-product of vegetable oil and as such exemption should have been granted. Smt. Ghai, learned counsel for the petitioner contended that the petitioner filed a review application, which has also been rejected vide Annexure-P/9.

(पीछे देखिये)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

041

आदेश पत्रक

मामला क्रमांक WP 393/91 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	4. Upon perusal of the order Annexure-P/8, it reveals that the application for amendment of certificate has been rejected on the ground that it is barred by time. The said application has not been considered on merits and even before rejecting the same the parties have also not been heard. There is clear violation of principles of natural justice. On these two grounds e.g. non-hearing of the parties as well as non-consideration on merits, in the opinion of this Court, ends of justice will be served, if the orders Annexure-P/8 and P/9 are set aside and the matter is remitted to the concerned authority to decide the same afresh in accordance with law. 5. Accordingly, the orders Annexure-P/8 and P/9 are set aside and the matter is remitted to the concerned authority to decide the same afresh in accordance with law. Certified copy as per rules. **Sd/-** **Fakhruddin** **Judge**	
Gowri		

(पीछे देखिये)